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No. 81-1033

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

ST. JOE PAPER COMPANY,

Petitioner,

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA,
in and for the
County of San Francisco,
and
ESPRIT DE CORP.,

Respondents

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

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STATEMENT OF THE CASE

Prior to any discovery, Petitioner-Defendant St. Joe Paper Co. ("St. Joe"), and one of its co-defendants, Consolidated Packaging Corporation ("CPC"), moved the San Francisco Superior Court for an order quashing service of the summons and complaint filed by Respondent-Plaintiff Esprit de Corp. ("Esprit").

Upon the denial of that motion, St. Joe and CPC appealed to the California District Court of Appeals, which court also found the required "minimum contacts" present to submit St. Joe and CPC to California's jurisdiction. See, Petition for Certiorari, Appendix B.

The California Supreme Court refused *certiorari.* See, Petition for Certiorari, Appendix A.

St. Joe petitioned this court for a Writ of Certiorari to the Supreme Court of the State of California.[1]

ARGUMENT

A California court can properly exercise personal jurisdiction over a non-resident, corporate defendant where "minimum contacts" exist between that defendant and the forum state. *International Shoe Co.* v. *State of Washington*, 326 U.S. 310, 316 (1945). The reason for this rule is to protect a defendant from litigation in a distant, inconvenient forum and to insure that states do not overreach their limits as co-equal sovereigns in the federal system. *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286, 100 S.Ct. 559, 564 (1980).

St. Joe's contacts with California must be such that maintaining this antitrust action in that State's courts is reasonable and just under all of the circumstances, including California's interest in adjudicating the controversy. *International Shoe Co.* v. *State of Washington, supra,* at pp. 316-317; *McGee* v. *International Life Insurance Co.* 355 U.S. 220 (1951).

Here, St. Joe has been charged with a nation-wide price-fixing scheme, which impact has been felt by California's consumers. St. Joe admits—and the California Courts have found—business and personal contacts with California consumers. See, Petition for Certiorari, Appendix B, at pp. B-3 -B-4.

St. Joe's salespersons call on customers located in California to solicit sales of the very product in issue in this lawsuit—corrugated containers. See, Affidavit of St. Joe Paper Company, Appendix D to Petition for Certiorari. Additionally, St. Joe had direct sales to at least one California business entity. *Ibid.*

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1. CPC did not seek a Writ of Certiorari to this Court.

Esprit respectfully suggests that St. Joe has the requisite minimum contacts with California for that State's courts to exercise personal jurisdiction over St. Joe in an action whose substance is based upon intentional wrongdoing, rather than mere negligence. See, *International Shoe Co.* v. *State of Washington,* supra; *McGee* vs. *International Life Insurance Co., supra; World-Wide Volkswagen Corp.* v. *Woodson, supra.*

CONCLUSION

For the above stated reasons, Esprit respectfully suggests that this Court should deny St. Joe's Petition for a Writ of Certiorari.

Dated: December 11, 1981

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of December, 1981, three copies of the Petition for a Writ of Certiorari were mailed, with first-class postage prepaid, to the following parties and counsel of record:

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I further certify that all parties required to be served have been served.

Francisco O. Scarpulla